

**JUDICIAL COUNCIL OF THE  
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE  
JUDICIAL CONDUCT AND  
DISABILITY ACT

No. 10-14-90046

Before **BRISCOE**, Chief Judge

**ORDER**

Complainant has filed a complaint of judicial misconduct against a district judge in this circuit. My consideration of this complaint is governed by 1) the misconduct rules issued by the Judicial Conference of the United States, entitled *Rules for Judicial-Conduct and Judicial-Disability Proceedings* (the “JCD Rules”); 2) the federal statute dealing with judicial misconduct, 28 U.S.C. § 351 *et seq.*; and 3) the “Breyer Report,” a study by the Judicial Conduct and Disability Act Study Committee, headed by Supreme Court Justice Stephen Breyer, entitled *Implementation of the Judicial Conduct and Disability Act of 1980*. The Breyer Report may be found at: <http://www.supremecourt.gov/publicinfo/breyercommitteereport.pdf>. To the extent that there are any relevant prior decisions of the full Judicial Council of this circuit which are consistent with those authorities, they may also govern my consideration of this complaint.

The JCD Rules and this circuit's local misconduct rules are available to complainants on the Tenth Circuit's web page at: <http://www.ca10.uscourts.gov/ce/misconduct>. Paper copies are also furnished by the Circuit Executive's Office upon request. In accordance with those rules, the names of the complainant and subject judge shall not be disclosed in this order. *See* JCD Rule 11(g)(2).

Complainant alleges that the subject judge engaged in misconduct while presiding over a criminal trial for multiple pro se defendants. The complainant contends that the judge engaged in conduct that demonstrated "a lack of judicial temperament, integrity, impartiality, and respect for the defendants." Specifically, complainant alleges that the subject judge disrespectfully threatened to rest the defendants' case despite the unavailability of witnesses, refused to provide or altered transcripts, compelled defendants to testify, failed to issue bench warrants, and improperly allowed the prosecution's admissions. Complainant concludes that the subject judge's conduct and statements were "demonstrably egregious and hostile" and "bolstered suspicions of judicial bias."

While allegations of judicial bias and mistreatment of litigants can state a valid claim for misconduct even when the allegations relate to a judge's ruling, *see* Commentary to JCD Rule 3, complainant's claims fail because they are unsupported. The Rules require complainants to support their allegations with "sufficient evidence to raise an inference that misconduct has occurred." *See* JCD Rule 11(c)(1)(D). Although complainant includes supporting materials, they do not raise an inference that misconduct has occurred.

Accordingly, this complaint is dismissed pursuant to JCD Rule 11(c). The Circuit Executive is directed to transmit this order to complainant and copies to the subject judge and the Judicial Conference Committee on Judicial Conduct and Disability. *See* JCD Rule 11(g)(2). To seek review of this order, complainant must file a petition for review by the Judicial Council. The requirements for filing a petition for review are set out in JCD Rule 18(b). The petition must be filed with the Office of the Circuit Executive within 35 days of the date of the letter transmitting this order. *Id.*

So ordered this 27th day of February, 2015.

/s/ Mary Beck Briscoe

Honorable Mary Beck Briscoe  
Chief Circuit Judge